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INTERNATIONAL INSURANCE COMPANY OF HANNOVER, SE

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

GOLDEN GATE/S.E.T. RETAIL OF
NEVADA, LLC., a Nevada Limited Liability
Company,

Plaintiff,

v.

INTERNATIONAL INSURANCE COMPANY
OF HANNOVER, SE, et al.

Defendants.

CASE NO. 3:17-cv-00190-RCJ-VPC

**STIPULATION FOR DISMISSAL OF
ACTION WITHOUT PREJUDICE AND
TOLLING AGREEMENT; [PROPOSED]
ORDER**

1 Plaintiff Golden Gate/S.E.T. Retail of Nevada, LLC. ("Plaintiff") and Defendant
2 International Insurance Company of Hannover, SE ("Hannover") (each, a "Party" and collectively,
3 the "Parties"), by and through their attorneys of record, hereby stipulate as follows:

4 1. On March 28, 2017, Plaintiff filed this action against Hannover (hereafter "this
5 Action"), seeking unpaid insurance proceeds relating to the leak of an underground fuel storage tank
6 owned by Plaintiff.

7 2. On August 16, 2017, Plaintiff filed its First Amended Complaint adding three
8 defendants, including Modern Welding Company, Inc. (the tank manufacturer), and Frank Lepori
9 Construction, Inc. and Petroleum Maintenance (the tank installers), seeking damages against each
10 arising from the same leak.

11 3. The filing of the First Amended Complaint defeated diversity jurisdiction in this
12 Action because Plaintiff, a Nevada Limited Liability Company, is, on information and belief, a
13 resident of the same state as Defendants Frank Lepori Construction, Inc. and Petroleum
14 Maintenance.

15 4. Hannover is the only Defendant which has appeared in this Action.

16 5. Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), Plaintiff and Hannover
17 hereby stipulate to the dismissal of this action as to all claims, causes of action, and defendants,
18 without prejudice.

19 6. Plaintiff and Hannover further agree that this Action shall be re-filed in Nevada State
20 Court, and that the running of all statutes of limitations applicable to any claims Plaintiff has
21 asserted against Hannover will be interrupted, suspended, and deemed to have tolled as of March 28,
22 2017, the date this Action was filed. This stipulation shall not revive any statute of limitation that
23 had run as of March 28, 2017.

24 7. Other than as set forth herein, Plaintiff and Hannover reserve all rights with respect to
25 and in connection with this Action, and this Stipulation for Dismissal and Tolling Agreement shall
26 not be asserted or construed to be a waiver of any claim, right or defense of any Party against any
27 other Party.

1 9. This Stipulation for Dismissal and Tolling Agreement shall not be construed as an
2 admission of liability or wrongdoing by either Party.

3 IT IS SO STIPULATED.
4

5 Dated: September 11, 2017

DICKINSON WRIGHT, PLLC

6 By /s/ Justin J. Bustos

7 Justin J. Bustos

8 Attorneys for Plaintiff Golden Gates/S.E.T.

Retail of Nevada, L.L.C.

9 -AND-

10 PHILLIPS, ERLEWINE, GIVEN & CARLIN, LLP

11 By /s/ R. Scott Erlewine

12 R. Scott Erlewine

13 (Pro Hac Vice)

14 Attorneys for Plaintiff Golden Gates/S.E.T.

Retail of Nevada, L.L.C.

15 RESNICK & LOUIS P.C.

16 By /s/ Athanasia Dalacas

17 Athanasia Dalacas

18 Attorneys for Defendant

19 INTERNATIONAL INSURANCE

COMPANY OF HANNOVER, SE

20 -AND-

21 CHAMBERLIN & KEASTER LLP

22
23 Dated: September 11, 2017

By /s/Robert W. Keaster

24 Robert W. Keaster

25 (Pro Hac Vice)

Attorneys for Defendant

26 INTERNATIONAL INSURANCE


COMPANY OF HANNOVER, SE
27
28

~~[PROPOSED]~~ ORDER

PURSUANT TO STIPULATION OF THE PARTIES, IT IS HEREBY ORDERED that the instant action is hereby dismissed as to all claims, causes of action, and parties, without prejudice.

IT IS SO ORDERED

Dated: 1-19-2018


UNITED STATES DISTRICT JUDGE